

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER DANIEL BURGESS,

Petitioner,

No. 2:03-cv-1196 GEB GGH P

vs.

D.L. RUNNELS,

Respondent.

ORDER

_____/

This habeas matter, in which petitioner proceeded with appointed counsel, was stayed pending exhaustion in 2004. Order, filed on February 5, 2004. It has now been stayed for more than eight years. On April 19, 2012, the undersigned ordered petitioner's counsel, Joseph Wiseman, to show cause why the stay in this matter should not be lifted, and the petition dismissed. Petitioner's counsel has filed a response and an exhibit and has requested that both be filed under seal as they contain privileged information.

The response and exhibit shall be filed under seal, and neither respondent nor any other party shall be allowed access unless express permission is provided by the court. That permission may well be granted if petitioner argues malfeasance on the part of his present counsel in order to avoid a statute of limitations defense. In light of the information provided, the Federal Defender is ordered to appoint new counsel to represent petitioner and provide a

1 status report within 45 days describing how this case will proceed.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Petitioner's motion (Doc. 24) is granted and the response and exhibit shall be
4 filed under seal and neither respondent nor any other party shall be allowed access unless express
5 permission is provided by the court.

6 2. The Federal Defender is ordered to appoint new counsel to represent petitioner
7 and provide a status report within 45 days describing how this case will proceed.

8 3. The Clerk of the Court is directed to serve this order on David Porter, Assistant
9 Federal Defender.

10 DATED: May 25, 2012

11 /s/ Gregory G. Hollows
12 UNITED STATES MAGISTRATE JUDGE

13 GGH: AB
14 burg1196.ord
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